



CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

New Jersey Office of the Attorney General

Division of Consumer Affairs
State Board of Professional Engineers and Land Surveyors
124 Halsey Street, 3rd Floor, Newark, NJ 07102
www.njconsumeraffairs.gov



JEFFREY S. CHIESA
Attorney General

ERIC T. KANEFSKY
Acting Director

September 20, 2012

Mailing Address:
P.O. Box 45015
Newark, NJ 07101
(973) 504-6460
(973) 273-8020 FAX

Certified and Regular Mail

Michael W. Hyland, P.E.
120 B Ocean Avenue
Ocean City, NJ 08226

RE: I/M/O Michael W. Hyland, P.E.

Offer of Settlement In Lieu of Filing a Formal Disciplinary Complaint

Dear Mr. Hyland:

This letter is to advise you that the New Jersey State Board of Professional Engineers and Land Surveyors (hereinafter the "Board") has had an opportunity to review information concerning your professional conduct in connection with your preparation of an expert report on behalf of QMA dated March 30, 2011 in the litigation entitled Wayne & Mary Maguire v. QMA Builders & Developers, et al, Docket No. ATL-L-1517-09.

More specifically, in or about April 2005, Wayne Maguire and Mary Maguire retained John E. Halbruner, P.E. and Hyland Design Group to prepare a report outlining construction defects in connection with their Ocean City residence. A report dated July 7, 2005 was provided to Mr. Maguire. Thereafter, you and Hyland Design Group prepared an expert report dated March 30, 2011 on behalf of QMA in connection with the Maguire residence. However, you did not obtain proper consent from the Maguires prior to rendering services on behalf of QMA. Further, the Board finds that the letter dated February 1, 2011 from Mitchell Waldman, Esquire, attorney for QMA, to Daury I. Lamarche, Esquire, attorney for the Maguires, does not fulfill your responsibility to obtain consent from the Maguires.

Upon review of all available information, the Board has preliminarily found that probable cause exists to support a finding that you are in violation of N.J.S.A. 45:1-21(e) and N.J.A.C. 13:40-3.5(a)(4)(iv) in that you did not obtain consent from Wayne Maguire and Mary Maguire prior to rendering services on behalf of QMA, including preparation of an expert report.


As a result of the foregoing, the Board has preliminarily determined that the above violation is sufficient to warrant the initiation of formal proceedings against you. Notwithstanding that decision, the Board has determined that it will first offer you an opportunity to settle this matter in an attempt to avoid the initiation of more formal proceedings if you consent to the following terms:

1. Agree to a formal reprimand upon your signing of the acknowledgment at the bottom of this letter in connection with the above violation;
2. Payment of a civil penalty in the amount of **\$2,500.00** to be paid **immediately** upon your signing of the acknowledgment at the bottom of this letter;
3. Agree to refrain from rendering services on behalf of QMA in connection with the Maguire property, unless full disclosure is provided and written consent is obtained from the Maguires and any interested party; and
4. Agree to provide proof of successful completion, to the Board's satisfaction, of a Board-approved ethics course within ninety (90) days upon your signing of the acknowledgment at the bottom of this letter.

In making a determination, you should know that pursuant to N.J.S.A. 45:1-25 any person who engages in conduct which is in violation of any provision of the statutes and regulations administered by the Board shall, in addition to any other sanctions provided by statute, be liable for a civil penalty of not more than \$10,000.00 for the first violation and not more than \$20,000.00 for the second and each subsequent violation. However, in an effort to resolve this matter amicably, the Board offers to settle on the terms stated above. If you are willing to resolve this matter on the offered settlement terms, you may do so by signing the acknowledgment at the bottom of this letter and returning it to the Board office within 15 days. In such event, this letter shall be a matter of public record.

Michael W. Hyland, P.E.

ACKNOWLEDGMENT: I, Michael W. Hyland, P.E., hereby acknowledge that I have read and reviewed the settlement proposal set forth in the above letter. I acknowledge the conduct which has been charged. I am aware that, by signing this acknowledgment, I am waiving any rights I may have to defend myself against any charges of wrongdoing at an administrative hearing. I am also aware that the action taken against me by the Board herein is a matter of public record and that this letter is a public document. I hereby agree to a formal reprimand, immediate payment of a civil penalty of \$2,500.00, to refrain from rendering services on behalf of QMA in connection with the Maguire property and provide proof of successful completion, to the Board's satisfaction, of a Board-approved ethics course, as outlined herein above.


MICHAEL W. HYLAND, P.E.

Dated: 9/28/2012